

## **REMARKS**

Applicant has received and carefully reviewed the Final Office Action of the Examiner mailed September 18, 2008. Currently, claims 10, 12, 27-30, 32, and 33 remain pending and stand rejected. Favorable consideration of the following remarks is respectfully requested.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 10, 12, 27-30, and 32-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schoenholtz, U.S. Patent No. 6,203,534, in view of Cohen, U.S. Patent No. 5,330,521 or Klint, U.S. Patent Publication No. 2002/0074501. Applicant respectfully traverses the rejection.

Schoenholtz, Cohen, and Klint, either separately or in combination do not teach or suggest the device as currently claimed. For example, none of the above cited references teach or suggest “wherein each of the continuous wires of the reinforcing braid layer includes a step-wise transition from the distal diameter of each of the continuous wires to the proximal diameter of each of the continuous wires,” as currently claimed in independent claims 10, 27, and 29. In formulating the rejection, the Examiner states, “Schoenholtz meets the claim limitations as described above except for the distal and proximal braided section having a decreasing cross sectional area.” The Examiner relies on Cohen or Klint to provide the missing claim limitation.

In response to Applicant’s previous arguments, the Examiner asserts, “the definition of a ‘step-wise’ transition is not described or depicted in Applicant’s disclosure, thus the broadest reasonable definition is applied.” The present application teaches on page 11, lines 13-14, “The wires 58, 60 can also be formed having a more abrupt transition between the first and second diameters.” Further, Figure 5A illustrates an abrupt or step-wise transition in the diameter.

The Examiner asserts “Cohen teaches (Figure 4) an implantable tubular device that uses a wire-reinforcement coil (42) with a diameter that decreases an incremental step-wise transition along its length (dL, dS) along with various production methods (Figure 4, col 8, ln 60-70, col 9, ln 1-43).” However, Cohen does not teach a wire reinforcement coil that decreases in a step-wise transition. Cohen teaches an implantable electrical lead having a relatively low electrical resistance. The lead of Cohen is comprised of a wire core formed in a helical coil.

In formulating the rejection, the Examiner has relied on Figure 4 as showing an incremental step-wise transition. It is noted that Figure 4 is a cross-sectional view of an electrical lead and a taper may appear to be a step-wise transition. However, Cohen teaches away from the use of a step-wise transition in the wire core that comprises the lead. In describing Figure 4, Cohen teaches at column 8, lines 35-39, "It should be noted that the taper of the wire core may be precisely controlled so as to be as gradual as desired. Generally, the more gradual the taper, the less stress concentration there is in the tapered section of the wire core." Emphasis added. Cohen is emphasizing a tapered wire and not a step-wise transition. As the Examiner is aware, MPEP 2141.02 VI states, "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)."

Further, Klint does not teach a step-wise transition from a first diameter to a second diameter. Klint teaches a wire core that is formed from a wire with a constant diameter throughout the length. The wire is helically wound and is subsequently ground to create a variation in crosssectional shape. Figure 2 of Klint shows the coil as gradually tapering from a circular wire to a semi-circular wire. One of ordinary skill in the art would not interpret the coil of Klint as a step-wise transition from a first diameter to a second diameter.

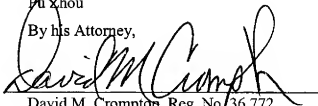
For at least the reasons set forth above, Schoenholtz does not teach each and every element of independent claims 10, 27, and 29. Cohen and Klint do not teach what Schoenholtz lacks. Thus, even if one were to combine Schoenholtz and Cohen or Klint, one would not arrive at the device as claimed. Furthermore, there is no motivation for one of ordinary skill in the art to modify Schoenholtz, Cohen or Klint to achieve the device as claimed. Applicant submits that claims 12, 28, 30, 32 and 33 are also in condition for allowance as they depend from the above claims and add significant limitations to further distinguish them from the prior art.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Pu Zhou

By his Attorney,

A handwritten signature in black ink, appearing to read "David M. Crompton", is written over a horizontal line.

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